UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER
KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/877,974	HOSEA ET AL.
	Examiner	Art Unit	
	Andrew Y. Koenig	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 September 2006</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>70-168</u> is/are pending in the application.

    4a) Of the above claim(s) <u>70-99</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>100-168</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   The numbering of claims is not in accordance with 37 CFR 1.126 which requires

the original numbering of the claims to be preserved throughout the prosecution. When

claims are canceled, the remaining claims must not be renumbered. When new claims

are presented, they must be numbered consecutively beginning with the number next

following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-69 been renumbered 100-168, respectively along with

their dependencies, as per rule 1.126.

Response to Arguments

2.   Applicant's arguments filed 01 September 2006 have been fully considered but

they are not persuasive.

Regarding independent claims 100, 116-118, and 168, the applicant argues that

Herz fails to anticipate the claims in that Herz fails to teaches "developing a profile of a

user based only on the profiles of the iTV programs accessed by the user" (see

remarks, pg. 12, last paragraph). Specifically, Herz teaches creating a customer profile

indicating the customer's preferences for predetermined characteristics of video

programming before updating the customer profile based on video programs actually

watched, which contrasts with the instant invention in that the profiles of Herz start with

the customer's preferences for predetermined characteristics, while the claimed

invention develops the profile of the user based only on the profiles of the iTV programs accessed by the user.

The examiner recognizes this distinction, but disagrees with the applicant in that the claims merely recite, "gathering user-requested content information from iTV interactions" and "developing a profile of a user based only on the iTV interactions." The applicant's arguments that iTV programs accessed by the user are only used for profile generation are broadly captured in the claims by "iTV interactions." However, the scope of iTV interactions is not defined in the claims nor given a special definition by the specification. Consequently, "iTV interactions" is given the broadest reasonable interpretation in the art, such as any interaction (active or passive) with a television.

In light of the broadest reasonable interpretation, Herz teaches developing a profile from a customer's zip code and passive monitoring of watched programs (col. 6, II. 43-63, col. 12, II. 9-11, col. 13, II. 44-62), which equates to the claimed only iTV interactions.

Regarding independent claims 121, 149, 156, 158, 159, 163, and 166, the applicant argues that Herz fails to teach, "developing a profile of the user based only on the profiles of the iTV programs accessed by the user." Specifically, the applicant characterizes the initialization of profiles of Herz with predetermined characteristics. The examiner disagrees; Herz teaches developing a profile from passive monitoring of watched programs (col. 13, II. 44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV programs accessed by the user."

Regarding arguments addressed to Hendricks, Strubbe, Gerace, Barrett, and

Ozer, the applicant argues that none of the references address the alleged deficiency of

Herz. From the discussion above, the examiner notes that Herz does teach these

limitations and thus rendering the applicant's arguments moot.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 121-124, 127, 131-136, 141, 144-146, 149, 151, 153, 155, 156, 158, 163,

and 166-168 are rejected under 35 U.S.C. 102(a/e) as being anticipated by U.S. Patent

6,088,722 to Herz et al. (Herz).

Regarding claim 121, Herz teaches a system for delivering programs, where

each customer has a profile to effectively target programming (Abstract). Accordingly,

Herz teaches gathering user requested content from iTV interactions, such as programs

requested and watched, correlating content-associated profile information with the user

requested content information, and Herz teaches developing a profile from passive

monitoring of watched programs (col. 13, ll. 44-52), which equates to the claimed

"developing a profile of the user based only on the profiles of the iTV programs

accessed by the user."

Regarding claim 122, Herz teaches comparing profiles containing demographic

information (col. 12, ll. 7-25, col. 35, ll. 27-29).

Regarding claim 123, Herz teaches demographic information comprising age

(col. 49, ll. 46-50).

Regarding claim 124, Herz teaches demographic information comprising gender

(col. 49, ll. 46-50).

Regarding claim 127, Herz teaches comparing profiles containing psychographic

information (col. 12, ll. 7-25, col. 35, ll. 27-29).

Regarding claim 131, Herz teaches monitoring programs the user views made by

the user while watching television (col. 26, ll. 20-33).

Regarding claim 132, Herz teaches a set top multimedia terminal (col. 26, ll. 20-

33), which equates to a set top box.

Regarding claim 133, Herz teaches sending all of the watched programs (e.g.

claimed requests) and transmitting the profile and viewing requests to the headend (col.

42, ll. 42-63), wherein the headend equates to an iTV Service Provider point of

presence.

Regarding claim 134, Herz teaches associating program requests with a user

and storing the program requests in a database (col. 48, ll. 37-51).

Regarding claim 135, Herz teaches updating an existing user profile (fig. 1, step

112).

Regarding claim 136, Herz teaches averaging program viewed to the existing user profile (col. 15, II. 20-27).

Regarding claim 141, Herz teaches selective advertising (col. 30, II. 18-38, col. 42, II. 42-63).

Regarding claim 144, Herz teaches a system for delivering programs, where each customer has a profile to effectively target programming (Abstract).

Regarding claim 145, Herz teaches clustering, which use viewers with similar profiles and provides recommendations accordingly (col. 12, II. 7-25, col. 35, II. 27-29).

Regarding claim 146, Herz teaches providing recommendations upon requests (col. 47, II. 9-30).

Regarding claim 149, Herz teaches a memory for storing a program (col. 46, II. 56-59), and a processor (906, col. 46-47, II. 51-8) operative with the program to gather user requested content from iTV interactions, such as programs requested and watched, correlate content-associated profile information with the user requested content information, and Herz teaches developing a profile from passive monitoring of watched programs (col. 13, II. 44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV programs accessed by the user."

Regarding claim 151, Herz teaches associating program requests with a user and storing the program requests in a database (col. 48, II. 37-51).

Regarding claim 153, Herz teaches selective advertising (col. 30, II. 18-38, col. 42, II. 42-63).

Regarding claim 155, Herz teaches selective advertising (col. 30, ll. 18-38, col. 42, ll. 42-63), which is clearly selected from a plurality of advertisements.

Regarding claim 156, Herz teaches a memory for storing a program (col. 46, ll. 56-59), and a processor (906, col. 46-47, ll. 51-8) operative with the program to gather user requested content from iTV interactions, such as programs requested and watched, correlate content-associated profile information with the user requested content information, and Herz teaches developing a profile from passive monitoring of watched programs (col. 13, ll. 44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV programs accessed by the user."

Regarding claim 158, Herz teaches associating program requests with a user and storing the program requests in a database (col. 48, ll. 37-51). Herz teaches a system for delivering programs, where each customer has a profile to effectively target programming (Abstract). Accordingly, Herz teaches gathering user requested content from iTV interactions, such as programs requested and watched, correlating content-associated profile information with the user requested content information, Herz teaches developing a profile from passive monitoring of watched programs (col. 13, ll. 44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV programs accessed by the user."

Regarding claim 163, Herz teaches monitoring programs the user views made by the user while watching television (col. 26, ll. 20-33) and Herz teaches developing a profile from passive monitoring of watched programs (col. 13, ll. 44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV

programs accessed by the user," wherein the information is stored on a computer readable medium.

Regarding claim 166, Herz teaches clustering customers together with similar profiles; further Herz teaches presenting programs to a cluster of individuals (col. 30-31, ll. 64-24, col. 35, ll. 6-29). Herz teaches a system for delivering programs, where each customer has a profile to effectively target programming (Abstract). Herz teaches monitoring programs the user views made by the user while watching television (col. 26, ll. 20-33), correlating content-associated profile information with the user requested content information, and Herz teaches developing a profile from passive monitoring of watched programs (col. 13, ll. 44-52), which equates to the claimed "developing a profile of the user based only on the profiles of the iTV programs accessed by the user." Herz teaches a system for delivering programs, where each customer has a profile to effectively target programming (Abstract).

Regarding claim 167, Herz teaches adjusting the target group (col. 49, ll. 46-63), which clearly optimizes user responsiveness to the content.

Regarding claim 168, Herz teaches a system for delivering programs, where each customer has a profile to effectively target programming (Abstract). Accordingly, Herz teaches Herz teaches developing a profile from passive monitoring of watched programs (col. 6, ll. 43-63, col. 12, ll. 9-11, col. 13, ll. 44-62), which equates to the claimed only iTV interactions. gathering user requested content from iTV interactions (claimed sniffer), such as programs requested and watched, correlating content-associated profile information with the user requested content information (claimed

profiler), and Herz teaches developing a profile from passive monitoring of watched

programs (col. 6, II. 43-63, col. 12, II. 9-11, col. 13, II. 44-62), which equates to the

claimed only iTV interactions.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 100-103, 108-110, 116, 117, 129, 130, and 150 are rejected under 35

U.S.C. 103(a) as being unpatentable over U.S. Patent 6,088,722 to Herz et al. (Herz) in

view of U.S. Patent 5,659,350 to Hendricks et al. (Hendricks).

Regarding claim 100, Herz teaches a system for delivering programs, where

each customer has a profile to effectively target programming (Abstract). Accordingly,

Herz teaches gathering user requested content from iTV interactions, such as programs

requested and watched, correlating content-associated profile information with the user

requested content information, and Herz teaches developing a profile from passive

monitoring of watched programs (col. 6, II. 43-63, col. 12, II. 9-11, col. 13, II. 44-62),

which equates to the claimed only iTV interactions. Herz teaches correlating the user

profiles with other users (such as a clustering technique), but is silent on correlating the

data with profile information from a rating service. Hendricks teaches correlating data

with a viewer ratings service database (col. 16, II. 57-60), which equates to profile

information from a rating service database.   Therefore, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to modify Herz by

using a viewer ratings service database as taught by Hendricks in order to correlate buy

information from existing programs to determine the outcome of programs within a

particular genre not in the current line-up (Hendricks: col. 16, ll. 56-60), thereby

increasing the revenue for the system.

Regarding claim 101, Herz teaches comparing profiles containing demographic

information (col. 12, ll. 7-25, col. 35, ll. 27-29).

Regarding claim 102, Herz teaches comparing profiles containing psychographic

information (col. 12, ll. 7-25, col. 35, ll. 27-29).

Regarding claim 103, Herz teaches the user-requested content is television

programming (col. 6, ll. 54-59).

Regarding claim 108, Herz teaches providing advertisements (col. 30, ll. 31-38).

Regarding claim 109, Herz teaches providing advertisements based on the user

profiles (col. 30, ll. 31-38).

Regarding claim 110, Herz teaches providing program recommendations based

on the profile (col. 24, ll. 50-62).

Regarding claim 116, Herz teaches a memory for storing a program (col. 46, ll.

56-59), and a processor (906, col. 46-47, ll. 51-8) operative with the program to gather

user requested content from iTV interactions, such as programs requested and

watched, correlate content-associated profile information with the user requested

content information, and Herz teaches developing a profile from passive monitoring of

watched programs (col. 6, ll. 43-63, col. 12, ll. 9-11, col. 13, ll. 44-62), which equates to

the claimed only iTV interactions. However, Herz teaches correlating the user profiles

with other users (such as a clustering technique), but is silent on correlating the data

with profile information from a rating service. Hendricks teaches correlating data with a

viewer ratings service database (col. 16, ll. 57-60), which equates to profile information

from a rating service database. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Herz by using a

viewer ratings service database as taught by Hendricks in order to correlate buy

information from existing programs to determine the outcome of programs within a

particular genre not in the current line-up (Hendricks: col. 16, ll. 56-60), thereby

increasing the revenue for the system.

Regarding claim 117, Herz teaches a memory for storing a program (col. 46, ll.

56-59), and a processor (906, col. 46-47, ll. 51-8), which clearly has a computer

readable medium in order to process the instructions in the processor. Herz teaches

gathering user requested content from iTV interactions, such as programs requested

and watched, correlating content-associated profile information with the user requested

content information, and Herz teaches developing a profile from passive monitoring of

watched programs (col. 6, ll. 43-63, col. 12, ll. 9-11, col. 13, ll. 44-62), which equates to

the claimed only iTV interactions. However, Herz teaches correlating the user profiles

with other users (such as a clustering technique), but is silent on correlating the data

with profile information from a rating service. Hendricks teaches correlating data with a

viewer ratings service database (col. 16, ll. 57-60), which equates to profile information

from a rating service database.   Therefore, it would have been obvious to one of
ordinary skill in the art at the time the invention was made to modify Herz by using a
viewer ratings service database as taught by Hendricks in order to correlate buy
information from existing programs to determine the outcome of programs within a
particular genre not in the current line-up (Hendricks: col. 16, ll. 56-60), thereby
increasing the revenue for the system.

Regarding claim 129, Herz teaches correlating the user profiles with other users
(such as a clustering technique), but is silent on providing a database associating
programs with demographic characteristics who have accessed programs (wherein
sites equates to programs). Hendricks teaches correlating data with a viewer ratings
service database (col. 16, ll. 57-60), which equates to profile information from a rating
service database.   Therefore, it would have been obvious to one of ordinary skill in the
art at the time the invention was made to modify Herz by using a viewer ratings service
database as taught by Hendricks in order to correlate buy information from existing
programs to determine the outcome of programs within a particular genre not in the
current line-up (Hendricks: col. 16, ll. 56-60), thereby increasing the revenue for the
system. Herz and Hendricks teaches a ratings database correlating user profiles with
other profiles, but Herz and Hendricks are silent on teaching a database with
demographic information. Official Notice is taken that having a database with
demographic information is well known in the art. Therefore, it would have been
obvious to one of ordinary skill in the art at the time the invention was made to modify

the combination of Herz and Hendricks by using demographic information in the

database in order to further establish the types of programming available to the user.

Regarding claim 130, Herz teaches correlating the user profiles with other users

(such as a clustering technique), but is silent on correlating the data with profile

information from a rating service. Hendricks teaches correlating data with a viewer

ratings service database (col. 16, ll. 57-60), which equates to profile information from a

rating service database.   Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify Herz by using a viewer ratings

service database as taught by Hendricks in order to correlate buy information from

existing programs to determine the outcome of programs within a particular genre not in

the current line-up (Hendricks: col. 16, ll. 56-60), thereby increasing the revenue for the

system.

Regarding claim 150, Herz teaches correlating the user profiles with other users

(such as a clustering technique), but is silent on providing a database associating

programs with demographic characteristics who have accessed programs (wherein

sites equates to programs). Hendricks teaches correlating data with a viewer ratings

service database (col. 16, ll. 57-60), which equates to profile information from a rating

service database.   Therefore, it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Herz by using a viewer ratings service

database as taught by Hendricks in order to correlate buy information from existing

programs to determine the outcome of programs within a particular genre not in the

current line-up (Hendricks: col. 16, ll. 56-60), thereby increasing the revenue for the

system. Herz and Hendricks teaches a ratings database correlating user profiles with other profiles, but Herz and Hendricks are silent on teaching a database with demographic information. Official Notice is taken that having a database with demographic information is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Herz and Hendricks by using demographic information in the database in order to further establish the types of programming available to the user.

7.   Claims 104-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,088,722 to Herz et al. (Herz) and U.S. Patent 5,659,350 to Hendricks et al. (Hendricks) in view of U.S. Patent 5,223,924 to Strubbe.

Regarding claim 104, Herz teaches the database being stored at the headend (col. 48, ll. 37-51), wherein the database associates a plurality of programs with content associated profile information of viewers (col. 25, ll. 45-64, fig. 1), but Herz and Hendricks are silent on receiving the database. Strubbe teaches downloading data into a database into the memory section (52, col. 4, ll. 17-26), which equates to receiving the database. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz and Strubbe by receiving the database as taught by Strubbe in order to create a customized TV program database containing only programs of interest to the viewer (col. 2, ll. 6-8).

Regarding claim 105, the combination of Herz, Hendricks, and Strubbe teaches using a viewer ratings service database, which is clearly developed by a television program rating service.

Regarding claim 106, Herz teaches gathering information on program requests made by the user while watching television (col. 6, ll. 58-59).

Regarding claim 107, Herz teaches using weightings using an averaging algorithm (col. 15, ll. 21-27).

8.   Claims 111-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,088,722 to Herz et al. (Herz) in view of U.S. Patent 5,848,396 to Gerace.

Regarding claim 111, Herz teaches the database being stored at the headend (col. 48, ll. 37-51), wherein the database associates a plurality of programs with content associated profile information of viewers (col. 25, ll. 45-64, fig. 1). Herz is silent on a URL as user-requested information. Gerace teaches building a profile and receiving a URL of the previously viewed web page and storing cookies (col. 6, ll. 48-52; col. 13-14, ll. 36-3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by using web-sites (URLs) as user requested information as taught by Gerace in order to provide targeted marketing to the user (Gerace: col. 2, ll. 30-34).

Regarding claim 112, Herz teaches the database being stored at the headend (col. 48, ll. 37-51), wherein the database associates a plurality of programs with content associated profile information of viewers (col. 25, ll. 45-64, fig. 1). Herz is silent on

associating a plurality of URLs with profile information of users; Gerace teaches

transmitting advertisements with contain URL for the advertisers depending on the

selected programming, as discussed in the combination presented in claim 12.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Herz by using web-sites (URLs) as user requested

information as taught by Gerace by storing the received data in the database of Herz in

order to provide targeted marketing to the user (Gerace: col. 2, ll. 30-34).

Regarding claim 113, Herz and Gerace are silent on Web site rating service.

Official Notice is taken that the use of a Web site rating service is well known.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Herz and Gerace by using a web site rating service in

order to accurately determine the content of the web-sites frequented by the user,

thereby acquiring more detailed information of the user to better target the user with

relevant programming and information.

Regarding claim 114, Herz teaches gather user-requested content of programs

watched (col. 6, ll.43-63). Herz is silent on gathering URL information; Gerace teaches

using a URL to help target advertisements (col. 6, ll. 48-52; col. 13-14, ll. 36-3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Herz by gathering URL information as taught by Gerace

in order to provide targeted marketing to the user (Gerace: col. 2, ll. 30-34).

Regarding claim 115, Herz teaches using weightings using an averaging

algorithm (col. 15, ll. 21-27). Herz is silent on combining the URL into the search.

Gerace teaches using a URL to help target advertisements (col. 6, II. 48-52; col. 13-14,

II. 36-3). Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Herz by using weighting with the URLs of

Gerace in order to provide a comprehensive profile of the user thereby providing more

targeted marketing to the user (Gerace: col. 2, II. 30-34).

9.   Claim 118 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

U.S. Patent 6,088,722 to Herz et al. (Herz) in view of U.S. Patent 5,659,350 to

Hendricks et al. (Hendricks).

        Regarding claim 118, Herz teaches content profiles describing the video

programs (col. 10, II. 15-29) and targeted advertisements (col. 30, II. 18-38, col. 42, II.

42-63), wherein each of the content profiles contains mathematical values representing

the weighted significance of characteristics of the video programming, which equates to

information containing instructions with user profiles for the advertisement. Further,

Herz teaches determining which advertisements should be displayed to the users and

displaying the advertisements to the users (col. 6, II. 43-63).

        Herz teaches a system for delivering programs, where each customer has a

profile to effectively target programming (Abstract). Accordingly, Herz teaches

gathering user requested content from iTV interactions, such as programs requested

and watched, correlating content-associated profile information with the user requested

content information, and Herz teaches developing a profile from passive monitoring of

watched programs (col. 6, II. 43-63, col. 12, II. 9-11, col. 13, II. 44-62), which equates to

the claimed only iTV interactions. Herz teaches correlating the user profiles with other

users (such as a clustering technique), but is silent on correlating the data with profile

information from a rating service. Hendricks teaches correlating data with a viewer

ratings service database (col. 16, ll. 57-60), which equates to profile information from a

rating service database. Therefore, it would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify Herz by using a viewer ratings

service database as taught by Hendricks in order to correlate buy information from

existing programs to determine the outcome of programs within a particular genre not in

the current line-up (Hendricks: col. 16, ll. 56-60), thereby increasing the revenue for the

system.

10.   Claim 119 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

U.S. Patent 6,088,722 to Herz et al. (Herz) and U.S. Patent 5,659,350 to Hendricks et

al. (Hendricks) in view of U.S. Patent 5,223,924 to Strubbe.

Regarding claim 119, Herz is silent on the acts of receiving, presenting, and

using being carried out by a set top box. Strubbe teaches a database at the television

receiver performing the acts of receiving, presenting, and using (as shown in figure 1,

col. 3, ll. 9-16), which equates to a set top box. Therefore, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify Herz by

implementing the features in the set top box as taught by Strubbe in order to locally

create a user profile for the user and provide targeted information directly to the user

(Strubbe: col. 2, ll. 3-15).

11.   Claims 125, 126, 128, 140, 142, 143, 148, 152, 154, 157, 159-161, 164, and 165

are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,088,722

to Herz et al. (Herz).

Regarding claims 125 and 126, Herz teaches demographic information, but is

silent on income and highest attained education level. Official Notice is taken that using

income and highest attained education level is well known in the art. Therefore, it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify Herz by incorporating income and highest attained education level in order to

further target programming towards the users.

Regarding claim 128, Herz teaches psychographic data, but is silent on user's

interests. Official Notice is taken that using user interests is well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the psychographic data of Herz by acquiring user

interests in order to further modify and designate information for the user.

Regarding claim 140, Herz is silent on erasing records the user has viewed after

developing the user's profile. Official Notice is taken that erasing records is well known

in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Herz by erasing records in order to further

efficiently manage the memory at the set top terminal, thereby reducing the necessary

memory for the system.

Regarding claim 142, Herz teaches targeted advertising, but is silent on pop-up advertisement to a display. Official Notice is taken that pop-up advertisements are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by using pop-up advertisements in order to diversify the types of advertisements to present to the user thereby enabling the system to further target information to the user.

Regarding claim 143, Herz teaches selective advertising (col. 30, ll. 18-38, col. 42, ll. 42-63), but is silent on explicitly transmitting a video advertisement in the video stream. Official Notice is taken that transmitting a video advertisement in the video stream is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by transmitting a video advertisement in the video stream in order to provide commercial programming seamlessly to the user for the benefit of better marketing.

Regarding claim 148, Herz teaches providing recommendations in a guide format (col. 47, ll. 9-30). Herz is silent on displaying the favorite programs first. Official Notice is taken that changing the order of programming is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by changing the order of programming in order to display the most relevant programming to the user, thereby reducing the viewer's effort to find the most desirable programming.

Regarding claim 152, Herz is silent on erasing records the user has viewed after developing the user's profile. Official Notice is taken that erasing records is well known

in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by erasing records in order to further efficiently manage the memory at the set top terminal, thereby reducing the necessary memory for the system.

Regarding claim 154, Herz teaches targeted advertising, but is silent on pop-up advertisement to a display. Official Notice is taken that pop-up advertisements are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by using pop-up advertisements in order to diversify the types of advertisements to present to the user thereby enabling the system to further target information to the user.

Regarding claim 157, Herz teaches sending all of the watched programs (e.g. claimed requests) and transmitting the profile and viewing requests to the headend (col. 42, ll. 42-63), wherein the headend equates to an iTV Service Provider point of presence. However, Herz is silent on an ISP point of presence server. Official Notice is taken that the use of an ISP server is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Herz by using an ISP server in order to facilitate in the communication of Internet data to the user, thereby diversifying and providing additional access to other communication networks.

Regarding claim 159, Herz teaches a headend, which equates to a local server computer for providing access to the user (col. 44, ll. 44-61). Herz teaches a set top multimedia terminal linked to the headend (claimed local server), monitoring accessed

programs, and Herz teaches developing a profile from passive monitoring of watched

programs (col. 13, II. 44-52), which equates to the claimed "developing a profile of the

user based only on the profiles of the iTV programs accessed by the user." Herz

teaches providing and transmitting advertisements based on the profile Herz is silent on

a remote server providing and transmitting advertisements based on the profile. Official

Notice is taken that the use of a remote server is well known in the art. Therefore, it

would have been obvious to one of ordinary skill in the art at the time the invention was

made to modify Herz by using a remote server in order to distribute the processing load.

Regarding claim 160, Herz teaches a headend. Which has a local database

containing associations of programs and profiles (col. 48, II. 37-51).

Regarding claim 161, Accordingly, Herz teaches gathering user requested

content from iTV interactions, such as programs requested and watched (col. 6, II. 43-

63).

Regarding claim 164 and 165, Herz is silent on computer readable medium is

removable memory or a signal transmission. Official Notice is taken that storing

programs on removable memory or transmitting a signal is well known in the art, such

as storing programs on CD-ROMs or downloading programs over the Internet or cable

systems. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Herz by storing programs on removable memory

or a signal transmission in order to transmit information thereby enabling plural devices

on using the same software thereby creating revenue by distribution.

12.   Claims 137-139 and 147 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent 6,088,722 to Herz et al. (Herz) in view of U.S. Patent

6,005,597 to Barrett et al. (Barrett).

Regarding claim 137, Herz teaches demographic categories associated with

ratings (col. 12, ll. 7-25, col. 35, ll. 27-29), but is silent on confidence measures, such as

filling in a value for a rating of a demographic category having a low confidence

measure. Barrett teaches correlating interests and confidence of the information (fig. 3,

col. 5, ll. 51-57), which reads on filling in a value for a rating of a demographic category

having a low confidence measure. Therefore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify Herz by correlating

interests and confidence of the information as taught by Barrett in order to further

provide available information to the user, while targeting information of high desirability

to the user.

Regarding claim 138, Herz teaches clustering customers together with similar

profiles, further Herz teaches presenting programs to a cluster of individuals even when

it may not match their particular profile (col. 30-31, ll. 64-24, col. 35, ll. 6-29), which

equates to substituting information from another profile when there exists a low

confidence measure. Herz teaches performing this feature independent of confidence

measures (e.g. when confidence is high and when confidence is low).

Regarding claim 139, Herz teaches clustering customers together with similar

profiles, further Herz teaches presenting programs to a cluster of individuals even when

it may not match their particular profile (col. 30-31, ll. 64-24, col. 35, ll. 6-29),

Regarding claim 147, Herz is silent on providing program recommendations

when the television is turned on. Barrett teaches providing program recommendations

when the television is turned on (col. 4, ll. 15-19). Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was made to modify

Herz by providing program recommendations when the television is turned on as taught

by Barrett in order to facilitate the user in selecting programming.

13.   Claim 162 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 6,088,722 to Herz et al. (Herz) in view of U.S. Patent 6,708,335 to Ozer et al.

(Ozer).

Regarding claim 162, Herz teaches presenting advertisements, but is silent on

how long the advertisement is displayed. Ozer teaches monitoring the length of time

each advertisement is viewed (col. 10, ll. 28-43). Therefore, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify Herz by

monitoring the length an advertisement is viewed as taught by Ozer in order to

effectively gauge the response of viewers to advertisements (col. 3, ll. 43-56).

Conclusion

14.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time
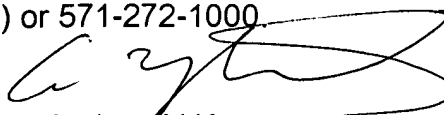
policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrew Y Koenig

Primary Examiner
Art Unit 2623

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